

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSITAS EDUCATION, LLC,

Judgment Creditor, :

-against- :

Case No. 11 CV 1590-LTS-HBP

NOVA GROUP, INC., as trustee, sponsor and :
fiduciary of THE CHARTER OAK TRUST :
WELFARE BENEFIT PLAN, :

Judgment Debtor.
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NOVA GROUP, INC., as trustee, sponsor and :
fiduciary of THE CHARTER OAK TRUST :
WELFARE BENEFIT PLAN, :

Judgment Debtor, :

Case No. 11 CV 8726-LTS-RLE

-against- :

UNIVERSITAS EDUCATION, LLC, :

Judgment Creditor.
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**NOTICE OF MOTION BY JUDGMENT CREDITOR UNIVERSITAS EDUCATION,
LLC, IN SUPPORT OF CIVIL CONTEMPT AGAINST NOVA GROUP, INC. AND
DANIEL E. CARPENTER, WAYNE H. BURSEY, JACK E. ROBINSON, MOLLY
CARPENTER AND AMANDA ROSSI FOR FAILURE TO COMPLY WITH THE
COURT'S AUGUST 17, 2012 ORDER**

TO:

Nova Group, Inc.
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Counsel for Mr. Wayne Bursey and Ms. Amanda Rossi
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254 Prospect Avenue
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PLEASE TAKE NOTICE that, upon the accompanying Declaration of Paula K. Colbath, Esq. (with exhibits) and the supporting Memorandum of Law, each dated November 28, 2012, and upon all prior pleadings and proceedings heretofore had herein, and pursuant to Fed. R. Civ. P. 37(b)(2)(A)(vii), Fed. R. Civ. P. 45(e), 18 U.S.C. § 401, 28 U.S.C. § 1651 (All Writ's Act), and the Court's inherent powers, Judgment Creditor Universitas Education, LLC ("Universitas"), by its attorneys Loeb & Loeb LLP, hereby respectfully moves this Court before the Hon. Laura Taylor Swain, at the United States Courthouse located at 500 Pearl Street, New York, New York 10007, on a date to be set by the Court, for an Order:

- (1) Pursuant to 28 U.S.C. § 636(e), requesting Magistrate Judge Henry Pitman certify the facts underlying the violation of his August 17, 2012 Order (Docket No. 133 in Case No. 11-1590, the "August 17 Order"), which required Judgment Debtor Nova Group, Inc. ("Nova Group") to produce, by August 31, 2012, all documents and information sought in the Document Request and Information Subpoena served by Universitas;
- (2) Finding Nova Group and its five principals, officers and managers, namely, Daniel E. Carpenter, Wayne H. Bursey, Jack E. Robinson, Molly Carpenter and Amanda Rossi, in civil contempt for disobeying this Court's August 17, 2012 Order;
- (3) Ordering Nova Group and Messrs. Daniel E. Carpenter, Wayne H. Bursey and Jack E. Robinson and Mmes. Molly Carpenter and Amanda Rossi each to pay monetary sanctions in the amount of \$2,500 per day for each day they have failed to comply with the Court's August 17 Order since September 1, 2012 until the date of compliance;
- (4) Ordering each of Messrs. Daniel E. Carpenter, Wayne H. Bursey and Jack E. Robinson and Mmes. Molly Carpenter and Amanda Rossi to appear before the Court on a date certain and explain why they should not each be arrested and held in prison until such time as they comply with the Court's August 17 Order;
- (5) Ordering Nova Group to immediately deposit with the Court the amount of \$30,450,690.31, consisting of the \$30,181,880.30 Judgment against Nova Group and in Universitas' favor (Docket No. 41 in Case No. 11-1590) and \$268,810.01 in attorneys' fees and costs ordered by the Court on October 5, 2012 to be paid by Nova Group to Universitas (Docket No. 162 in Case No. 11-1590), until final resolution of Nova Group's appeal to the Second Circuit Court of Appeals;
- (6) Awarding attorneys' fees and costs arising out of the preparation and the anticipated appearance(s) on this motion; and
- (7) Any further relief the Court deems just, proper and appropriate.

WARNING: YOUR FAILURE TO APPEAR IN COURT AT A DATE AND TIME TO BE SET BY THE COURT MAY RESULT IN YOUR IMMEDIATE ARREST AND IMPRISONMENT FOR CONTEMPT OF COURT.

By Order dated September 20, 2012, Universitas received permission from Magistrate Judge Henry Pitman to proceed with this motion for contempt (Docket No. 156, Case No. 11-1590.) Universitas, through undersigned counsel, certifies pursuant to the Court's Individual Practice Rules that it has used its best efforts to informally resolve the matters raised in this motion.

Dated: New York, New York
November 28, 2012

LOEB & LOEB LLP

By: /s/ Paula K. Colbath
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